

Message Text

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ACTION ORM-02

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TAGS: SREF, UNHCR
SUBJECT: SOME REFLECTIONS ON THE TERRITORIAL ASYLUM CONFERENCE

SUMMARY: THE CONFERENCE ON TERRITORIAL ASYLUM CLOSED DOWN MID-DAY FEBRUARY 4 WITHOUT COMING WITHIN SIGHT OF THE MANDATE SET FOR IT. THE SUBSTANTIVE SIGNIFICANCE OF THIS MAY BE ASSESSED ELSEWHERE, AND PERHAPS NOT ALTOGETHER UNFAVORABLY, BUT THE MISSION FEELS THERE ARE SOME PROCEDURAL QUESTIONS WHICH HAVE BEEN HIGHLIGHTED BY THE CONFERENCE AND SOME PROCEDURAL LESSONS WHICH, IF NOT NEW, WERE RE-TUAGHT BY IT. END SUMMARY.

1. THE LIFE-SUPPORT SYSTEMS OF THE CONFERENCE ON TERRITORIAL ASYLUM WERE GENTLY UNPLUGGED THROUGHOUT THE FINAL WEEK OF THE CONFERENCE (SUSPENSION, FOR EXAMPLE, OF FURTHER SESSIONS OF THE DRAFTING COMMITTEE) AS IT BECAME APPARENT TO ALL THAT IT MUST FAIL, AND THE ATTENTION OF THE CONFERENCE BECAME FOCUSED ON ITS INTERMENT IN A FINAL ACT THAT WOULD AT LEAST CARRY SOME PROMISE OF A LIFE HEREAFTER. THE QUESTION TURNED IN THE END ON WHETHER THE UNGA OR GOVERNMENTS WOULD DECIDE UPON THAT PROSPECT, AND THE COMPROMISE FINAL ACT LEAVES THIS QUESTION OPEN BUT, AT LEAST SO FAR AS TIMING IS CONCERNED, SOMEWHAT IN THE FAVOR OF LIMITED OFFICIAL USE

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GOVERNMENTS TO DECIDE. THE TERRITORIAL ASYLUM CONFERENCE APPEARS TO US TO HAVE HIGHLIGHTED SOME PROCEDURAL QUESTIONS AND RE-TUAGHT SOME PROCEDURAL LESSONS.

2. FIRST, THERE IS THE BASIC CONSIDERATION OF WHETHER WE SHOULD INITIATE NEW LAW ON HUMANITARIAN MATTERS IN A FORUM SUCH AS THE U.N., WHERE THE USSR AND ITS ASSOCIATED STATES CAN BE SO

INSTRUMENTAL IN DETERMINING THE COMMON DEMONINATOR AT WHICH AGREEMENTS CAN BE REACHED. THAT IS, RATHER THAN OURSELVES ACCOMMODATING DOWNWARD TO NORMS THE SOVIETS CAN ACCEPT, IT MIGHT BE WISER TO FIND MORE RESTRICTED FORA IN WHICH TO DEVELOP NORMS: THE SOVIETS THEREAFTER WOULD HAVE TO ACCOMMODATE THEMSELVES OR BE OUT OF STEP WITH CONTEMPORARY INTERNATIONAL STANDARDS OF CONDUCT. THIS PROCESS HAS BEEN AND CAN BE CARRIED FORWARD ON A REGIONAL BASIS BY EUROPEANS, LATIN AMERICANS, AND AFRICANS WITH THE U.S. AND OTHERS BRINGING THEMSELVES EXPRESSLY INTO CONFORMITY. THIS APPROACH WOULD HAVE THE ADVANTAGE OF PRESENTING THE SOVIETS AND OTHERS WITH A PRESSURE TO CONFORM OR EXPLAIN, RATHER THAN WITH AN OPPORTUNITY TO OBSTRUCT OR MINIMIZE.

3. ON TOPICS SUCH AS THAT ASSIGNED TO THIS CONFERENCE WE SHOULD WEIGH VERY EARLY IN ANY PROCESS ANTICIPATING A CONFERENCE THE RISKS OF REGRESSION AGAINST THE PROSPECTS FOR PROGRESS. IN THIS INSTANCE, WE APPEAR ON BALANCE TO HAVE EMERGED HAPPILY WITH SOME INCIPIENT PROGRESS ALONG WITH THE SETBACKS, BUT THE PROGRESS IS FAR FROM COMPLETE AND MIGHT EASILY HAVE BEEN OTHERWISE.

4. IN U.N. PRACTICE THE LIKELIHOOD IS THAT MANY, IF NOT MOST, LDC DELEGATIONS WILL BE COMPOSED EXCLUSIVELY OF ONE OR MORE REPRESENTATIVES FROM RESIDENT MISSIONS WHOSE INSTRUCTIONS, IF THEY HAVE ANY, WILL BE MINIMAL AND WHOSE INSTINCTS WILL BE TOWARD SAFEGUARDING NATIONAL (GOVERNMENTAL) INTERESTS AND GROUP SOLIDARITY. A NUMBER AT THIS CONFERENCE INDICATED PRIVATELY THEY WERE UNCOMFORTABLY AWARE OF THE EXTENT TO WHICH THEY WERE SUBORDINATING HUMANITARIAN INTERESTS TO THE NARROWER DIMENSIONS OF THEIR INSTRUCTIONS OR GROUP SOLIDARITY. ONE, WHO HIMSELF LIMITED OFFICIAL USE

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HAD BEEN A POLITICAL ASYLEE (THE BANGLADESH PERMREP), PROFESSED PRIVATELY TO BE EMBARRASSED BY THE RESTRICTIVE, STATE-ORIENTED INSTRUCTIONS HE HAD TO EXECUTE (ALTHOUGH HE EXECUTED THEM FAITHFULLY). IT FOLLOWS THAT SYSTEMATIC PRIOR CONSULTATION IN CAPITALS SHOULD PRECEDE SUCH A CONFERENCE: TO DO SO WOULD ENCOURAGE POSITIVE POSITIONS AND ALLOW US TO SHAPE OUR OWN POSITIONS TO TAKE INTO ACCOUNT LEGITIMATE NATIONAL SENSITIVITIES.

5. THIS EXPERIENCE POINTED UP THE IMPORTANCE OF EARLY CONTACT WITH SECRETARIATS BEFORE SUCH CONFERENCES, AND CAREFUL MONITOR-ING OF SECRETARIAT PREPARATIONS. IN THIS INSTANCE, THE PREPARATIONS NOT ONLY WERE INEPT BUT, AS IT TURNED OUT, WERE MISCHIEVOUS. OUR FIRST HINT OF THIS CAME TOO LATE TO ACT UPON.

6. WHERE SECRETARIAT PREPARATIONS FOR A CONFERENCE SUCH AS THIS APPEAR INADEQUATE OR MISGUIDED, PRIOR CONSULTATION AMONG SIMILARLY MINDED DELEGATIONS IS ESSENTIAL TO FILL THE VOID. IN ANY EVENT, THERE NEEDS TO BE WEO COHESIVENESS (ESPECIALLY AT A CONFERENCE ON HUMANITARIAN MATTERS) AND EFFECTIVE SPOKES-

MANSHIP. THE WEO GROUP WAS VERY WEAK ON BOTH COUNTS AT THIS CONFERENCE. (NORWAY, WHICH CHAIRED WEO CONSULTATIONS AT THE CONFERENCE, HAS RAISED THE QUESTION IN THIS REGARD WHETHER THE ROTATION FORMULA FOR WEO CHAIRMANSHIP FOR CONFERENCES HELD IN NEW YORK NECESSARILY SHOULD PERTAIN IN GENEVA, OR WHETHER A MORE FLEXIBLE FORMULA SHOULD BE ADOPTED.)

7. THE USG POSITIONS ON CONFERENCE ISSUES NEEDS TO BE ESTABLISHED FIRMLY BEFORE SUCH A CONFERENCE OPENS OR THE CAPACITIES OF THE DELEGATION TO ADVANCE ITS POSITIONS WILL BE DILUTED IN PROCEDURAL HEDGES, AS WAS THE CASE EARLY IN THIS CONFERENCE.

8. IT IS AT LEAST WORTH CONSIDERING THE ADVANTAGES OF CONVENING SUBSEQUENT HUMANITARIAN CONFERENCES AT SITES OTHER THAN NEW YORK OR GENEVA. TO DO SO MIGHT REDUCE PROSPECTS FOR POLITICALLY ORIENTED PARTICIPATION BY MISSIONS WHILE INTRODUCING INTERESTS OF THE HOST GOVERNMENT AND SENSITIVITY TOWARD THEM.
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9. ANY U.S. DEL SHOULD STROGLY BE REMINDED OF THE BASIC AXIOM: HE WHO ASKS FOR VOTES OFTEN GETS THEM. THE EGO'S TENDED TO THINK THAT QUALITY, NOT POLITICKING, WOULD ELECT OUR PEOPLE. IT DIDN'T WORK OUT THAT WAY. IT SELDOM DOES. CATTO

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